

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks, Suite 350  
Sacramento, CA 95833  
(916) 274-5721  
FAX (916) 274-5743  
[www.dir.ca.gov/oshsb](http://www.dir.ca.gov/oshsb)



Attachment No. 2

**INITIAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

Title 8: Chapter 4, Subchapter 6, New Article 5.1, and  
New Section 3005 of the Elevator Safety Orders

**Reporting Accidents Involving Listed Devices****SUMMARY**

Existing Title 8, Elevator Safety Orders do not contain requirements for reporting or investigating accidents where maintenance, operation, or use of a device listed in Section 3000(c) results in injury or death to a member of the general public. The only accidents required to be reported are those involving serious injury or illness, or death of an employee, pursuant to Section 342 of the Regulations of the Division of Occupational Safety and Health (Division). Reported employee-related accidents are subsequently categorized (by industry) and statistically recorded as worksite-related. When an employee-related accident involving a listed device requires an investigation, it is conducted by the Division and not the Division's Elevator Unit that oversees these devices. The Elevator Unit, however, will provide technical assistance when requested by the Division.

Carl J. White & Associates petitioned the Occupational Safety and Health Standards Board (Board), Petition File No. 408, to amend the Elevator Safety Orders to include accident reporting and investigation requirements which involve the riding public. The petitioner implies that accidents occurring on devices such as elevators/escalators would be investigated by the Division and, that by involving an impartial third party like the Division, accidents could be prevented and/or reduced. The petitioner believes that reporting these accidents would not burden the owners since they are already required to report accidents to their insurance company if the accident results in injuries that require a physician.

The Board granted the petition to the extent that the Division convene an advisory committee to consider the petitioner's recommendations. The Division attempted to convene a representative advisory committee, however, only four members attended, two of which were Division representatives. Those in attendance did, nevertheless, agree with the petitioner's assessment that owners of elevators/escalators are not required to notify the Division when accidents occur on elevators, escalators, moving walks, or similar public conveyances (devices). Elevator service companies occasionally inform the Division of accidents as a matter of courtesy. By contrast, it is industry practice that owners, or the owner's responsible agent, report those

accidents that result in an injury to a passenger to the insurer. Such accident information is confidential and, therefore, not available to the Division.

Those attending the committee meeting also agreed that by requiring that accidents on these devices be reported, the Division could compile statistics that currently do not exist. The subsequent investigation of these accidents, when required, could reveal relevant data, such as equipment failure or mechanical malfunction that may have caused the accident. The information would also be useful to the Division when the Division evaluates the serviceability and mechanical condition of the device during the yearly inspection required for the owner to obtain the permit needed to operate the device. The information could also reveal detrimental trends in the function and operation of the device that could be corrected to prevent such accidents from occurring.

This proposal recommends revisions to the Elevator Safety Orders that would require the owners of devices, such as elevators, escalators, moving walks, etc., listed in Subsection 3000(c), to report to the Division's Elevator Unit Headquarters in writing, those accidents which result in injury to any person(s) requiring medical treatment beyond ordinary first aid within five days of the accident. The proposal also requires that any accident resulting in serious injury or death be reported immediately via telephone to the Division's Elevator Unit Headquarters. The proposal further requires the owners of devices to preserve the equipment and site conditions for investigation by the Division.

### SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

#### New Article 5.1. Accident Reports and Procedures

The proposal will establish new Article 5.1 entitled "Accidents Reports and Procedures" which will contain requirements for reporting accidents involving all those who maintain, operate, or use a device as listed in Section 3000(c) of the Elevator Safety Orders.

#### New Section 3005. Reporting Accidents Involving Listed Devices.

##### Subsection (a)

Proposed subsection (a) outlines the scope of the regulation, stating that the Article applies to all devices listed in Section 3000(c), and provides the definitions for the terms: "responsible agent", "immediately", "incident", and "serious injury" which are used throughout the Article. Subsection (a) is necessary to clarify the scope and terms of the regulation.

##### Subsection (b)

Proposed subsection (b) addresses the accident reporting requirements required of all listed device owners or their responsible agent. The proposal requires all accidents where maintenance, operation, or use of a listed device results in injury to any person(s) which requires medical treatment beyond ordinary first aid to be reported in writing within five days of the accident to the Elevator Unit Headquarters Office in Anaheim. Subsection (b)(1) requires all

serious injuries or deaths to be reported immediately via telephone to the Elevator Unit Headquarters Office in Anaheim. The proposal is necessary to ensure that all accidents that require medical treatment beyond ordinary first aid are reported to the Division's Elevator Unit Headquarters Office for statistical and, for serious injury or death cases, accident investigation purposes.

#### Subsection (c)

Proposed subsection (c) addresses the requirements regarding the preservation of all equipment and site conditions for investigation by the Division for those accidents resulting in serious injury or death as a result of the maintenance, operation, or use of a listed device. Subsection (c)(1) states that upon receiving a report of an accident from an owner/responsible agent, the Division shall determine whether further preservation of the equipment or site conditions is necessary and shall inform the owner/responsible agent of its determination. Subsection (c)(2) adds that if the Division determines that continued preservation is necessary, the Division shall make a reasonable effort to initiate the accident investigation within 24 hours of receipt of the report from the owner/responsible agent. And finally, subsection (c)(3) states that upon initiating the accident investigation, the Division shall provide the owner/responsible agent with instructions on how long the equipment or site conditions shall continue to be preserved. The proposal is necessary to ensure that equipment and site conditions are preserved for investigation by the Division when accidents resulting in serious injury or death occur.

#### Subsection (d)

Proposed subsection (d) requires any state, county, or local fire, or law enforcement agency responding to an accident involving a listed device where the accident results in a serious injury or death, to immediately notify the Elevator Unit Headquarters Office in Anaheim. The proposal is necessary to ensure that the Elevator Unit Headquarters Office in Anaheim is immediately notified of any accident involving a listed device that results in serious injury or death.

#### Subsection (e)

Proposed subsection (e) outlines the information required in all accident reports, whether phoned-in or submitted in writing. This information, if available, is to include: the date, time and location of the accident; the name, address and phone number of the owner of the device; the name and phone number of the person reporting the accident; the names, addresses and phone numbers of all persons involved in the accident; the names, addresses and phone numbers of all witnesses and the contact person at the accident site; a description of the injury(ies) and treatment provided to the injured party(ies) involved in the accident; and a detailed description of the accident. The proposal is necessary to ensure that all necessary information pertaining to an accident involving a listed device is reported.

### Subsection (f)

Proposed subsection (f) requires all Incidents, as defined in proposed subsection (a), to be documented to include a description of the incident and the date on which the incident occurred, and that this documentation be kept in the elevator machine room or similar area adjacent to the device for review by the Division during the Division's annual inspection of the device. The proposal is necessary to ensure that any event, failure, or malfunction of a listed device is recorded and tracked for maintenance and inspection purposes so as to prevent any serious accidents from occurring.

### DOCUMENTS RELIED UPON

- Petition No. 408; Carl J. White, Carl J. White & Associates, Inc., Petitioner, Proposed Decision.

This document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

### REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

### FINDING OF NECESSITY FOR REPORT REQUIREMENT

The Board finds that it is necessary for the health, safety and welfare of the people of the state that this regulation's reporting requirements apply to business. The reporting requirement for accidents that occur on devices such as elevators, escalators, moving walks, etc., which result in injury or death to the general public, serves to inform the Elevator Unit within the Division of Occupational Safety and Health of such accidents. The Elevator Unit subsequently responds by conducting an investigation of the accident, i.e., equipment and site inspection, interviewing witnesses, etc., to determine the cause. The findings of the investigation will be evaluated and used to prevent similar accidents and further injury to the people of the state. Currently, no regulation requires that accidents on those devices resulting in injury or death to the general public be reported to the Division or any other state agency.

### SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

## COST ESTIMATES OF PROPOSED ACTION

### Cost or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action. The Division does not charge state agencies for services performed on elevators, escalators, moving walks, etc.

### Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

### Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. It is anticipated that the cost impact for the owners of these devices to comply with this proposal will be minimal. Accidents on devices covered by this proposal are infrequent, based on the Division's past experience and on informal information relayed to the Division by elevator service companies. However, when an accident involving serious injury or death is reported pursuant to this proposal, the owner of the device will be charged \$110.00 per hour while Division staff investigates the accident. The hourly fee is identical to the current fee charged to the device owner by the Division to conduct the yearly inspection associated with the permit to operate the device, pursuant to Section 344.30 of the Regulations of the Division of Occupational Safety and Health.

### Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. See "Impact on Businesses" above.

### Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

### Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

### Other Nondiscretionary Costs or Saving Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

### DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulations do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

### EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

### ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

### ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.